

8 June 1972

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Advisory Committees

1. This memorandum recommends Agency action on a proposed Executive order and certain legislation concerning advisory committees. The recommendations are in paragraph 6.

2. The proposed Executive order and legislation would raise a number of problems by imposing certain reporting, disclosure and oversight requirements on the use of advisory committees within the Executive Branch.

3. Proposed Executive Order. The proposed Executive order is less troublesome from the standpoint of the intelligence community than legislation, but could:

a. Give the Office of Management and Budget an enhanced management role over all intelligence community and CIA advisory committees;

b. Require that each committee be identified in the Federal Register by name, indicating the agency to which it reports, the name and business address of the chairman and the agency he represents, and the person to be contacted for additional information about the committee; and

c. Require that all meetings be public with due notice in the Federal Register except for committees composed wholly of Government officers or employees. (This requirement is abrogated upon a determination by the agency head that the committee activities involve matters which are exempt from public disclosure under the Freedom of Information Act, e. g., classified in the interest of national defense or foreign policy. Presumably, the abrogating determination itself would be made public as would an annual report summarizing the committee's activities in a fashion that does not compromise security.)

OGC

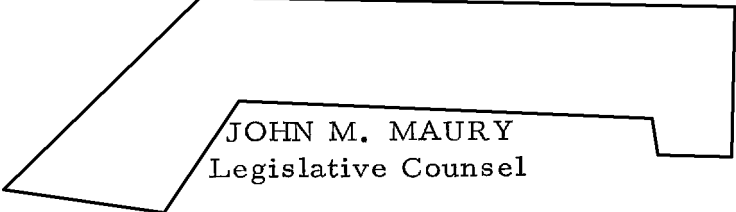
4. It appears that advisory committees of the Agency, as well as those within the intelligence community and under the Director's jurisdiction, would be exempt from the troublesome features of the Executive order, since the order does not apply in situations in which it is "inconsistent with or in conflict with any statutory provision" (i. e., the sources and methods provisions of the National Security Act of 1947 and the CIA Act of 1949, and the specific protection against disclosure of Agency names, organization, and financing in the 1949 Act).

5. Legislation. The House has passed H. R. 4383 and the Senate Committee is considering S. 3529. The Senate bill, even though its application is not as broad as the House bill, raises a number of problems due to its reporting, disclosure, and oversight requirements, as detailed in the attached proposed letter to Senator McClellan.

6. Recommendations.

a. Executive Order. It is recommended that the Office of Planning, Programming and Budgeting inform the International Division, Office of Management and Budget, of the Agency's conclusion that intelligence committees serving the intelligence community would not be subject to the disclosure requirements of the proposed Executive order, including the requirement to publish in the Federal Register the names of committees and annual public reports on committee activities.

b. Legislation. It is recommended that the Director sign the attached letter to Senator McClellan requesting an appropriate exemption for the Agency and the intelligence community from such legislation on advisory committees as may be considered by the Senate Government Operations Committee. Prior to transmittal to Senator McClellan, the letter will be sent to the Office of Management and Budget for clearance.



JOHN M. MAURY
Legislative Counsel

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Per LLM's conversation with Hildebrand
on 5 July 1972, OPPB will take action to
carry out recommendation (a).

TAB

Executive
Orders
and
Bills

Scope

Disclosure Requirements
and
National Security

Oversight

Proposed
Executive Order

- Extends coverage to Presidentially appointed committees, boards, councils, etc.
- Includes interagency committees established by a department consisting of Government officials only and in existence more than 1 year.
- Same expiration period as EO 11007.

- On January 1 each year furnish to Congress and publish in Federal Register list of all committees * and name and representation of chairman and of person who can handle requests for information.
- All meetings of advisory and industry advisory committees to be opened to the public. Subject to exceptions (classified information, internal data) in Freedom of Information Act. If no disclosure can be made, committee must at least publish an annual report summarizing activities consistent with security.
- Sec. 15 of Order provides no provision of Order applies if inconsistent with a statute.

- Presidential committees to be overseen by OMB unless provided to the contrary by establishing authority.
- OMB to issue guidance to agencies and departments to manage inter-agency committees.

*Intra agency committees excluded by definition.

Executive Orders and Bills	Scope	Disclosure Requirements and National Security	Oversight
H. R. 4383 (Monagan) Feb. 17, 1971	<ul style="list-style-type: none">• Includes all of Proposed Executive Order.• OMB, with CSC, to establish rates to pay for staffs and consultants, unless otherwise provided by statute, not to exceed GS-18.	<ul style="list-style-type: none">• Director, OMB to furnish Library of Congress 8 copies of every report made by an advisory committee, and as appropriate, background papers by consultants, subject to <u>Freedom of Information Act</u>.• President to furnish Congress annual reports to include: names of committees and members; functions; reference to reports; costs.• All committees to keep records to show disposition of funds and activities. Comptroller General shall have access to, for audit, all books, papers and records of each advisory committee.• Requires timely public notice of meetings, except where notice would endanger national defense and foreign policy.	<ul style="list-style-type: none">• Congressional committees of jurisdiction are to review all committees and secure necessary legislation to merge, abolish or revise.• OMB to review all advisory committees and make recommendations to the President.• OMB to establish Committee Management Secretariat to provide administrative guidance and management controls.

Executive
Orders
and
Bills

Scope

Disclosure Requirements
and
National Security

Oversight

S. 3529
(Metcalf)
April 25, 1972

- Includes only committees not composed wholly of officers of the Government.
- Advisory committees in existence shall terminate December 1973 unless renewal by the President is established. If established by law, termination must be otherwise provided by law.
- Limits compensation of members and staff to GS-18 salary.

- Provides copies of committee reports to Library of Congress and grants Library of Congress full access to committee records and papers. Public access permitted subject to restrictions by the Librarian if material is classified.
- Agencies to maintain records showing disposition of funds and activities. GSA to maintain these files for Presidential Advisory Committees. Comptroller General to have full access to both records.
- All meetings of advisory committees to be open to public unless agency head determines meetings involve protected matter under Freedom of Information Act. Such determination shall be published in Federal Register. Anyone aggrieved of this decision may seek court action under Freedom of Information Act.
- No committee may meet until a charter has been filed with OMB for Presidential advisory committees, and for others with Congressional committee of jurisdiction and Library of

- Same Congressional review as in H. R. 4383.
- Same responsibilities of OMB.
- Agency heads to establish procedures consistent with OMB guidance and Freedom of Information Act.

Executive
Orders
and
Bills

Scope

Disclosure Requirements
and
National Security

Oversight

S. 3529
(Con't.)

Congress. Charter to include objectives, scope of activity costs, duties and duration.

• Director, OMB, shall submit to Congress and publish in Federal Register a report giving run down on activities, membership and cost of advisory committees. The Director shall exclude any information which in his judgment may compromise national security.

• Presidential committee to be provided administrative support by GSA.

TAB



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OFFICE OF THE DIRECTOR

18 July 1972

The Honorable John L. McClellan, Chairman
Committee on Government Operations
United States Senate
Washington, D. C. 20510

My dear Mr. Chairman:

We wish to submit the views of this Agency on S. 3529, 92nd Congress, a bill "To prescribe certain standards and procedures governing the establishment and operation of advisory committees in the Federal Government, and for other purposes."

In its present form, S. 3529 raises several problems for the Agency. The provisions of most concern are the requirements:

- a. To publicize the existence of an advisory committee;
- b. To file with the Library of Congress a committee charter involving information on the committee's objective and scope of activity and a description of its duties;
- c. To file committee reports with the Library of Congress;
- d. To provide to the Librarian of Congress committee records, transcripts, working papers, drafts, studies and other documents upon a committee's termination;
- e. To audit the nature and extent of the committee's activities by the Comptroller General, and
- f. To make a determination in writing and publish it in the Federal Register prior to each meeting which is to be closed to the public and for which the minutes of the meeting are not to be available upon the request of any person because of security considerations.

It is clear from the hearings before your Committee on legislation similar to S. 3529 that the principal objective of the legislation is to assure that advisory committees operate in the public interest. In the case of committees dealing exclusively with sensitive national security and foreign intelligence matters, it appears that the public interest is best served by protecting their endeavors in line with the provisions of law noted above.

In view of the foregoing, it is recommended that S. 3529, or any similar legislation reported out by your Committee, contain a provision similar to that which appears in S. 1637, which was introduced by Senator Metcalf on 22 April 1971, as follows:

"Applicability

Sec. 4. This Act shall not apply to an advisory committee--
(1) which furnishes advice or recommendations only
with respect to national security or intelligence
matters;..."

We will be happy to provide any additional information that your
Committee may request.

The Office of Management and Budget has advised that from the
standpoint of the Administration's program there is no objection to the
submission of this report.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard Helms", with a long horizontal flourish extending to the right.

Richard Helms
Director

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM
UNCLASSIFIED CONFIDENTIAL SECRET

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	Ex/Dir	6/29	wfc/SLP
2	OLC		
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<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY	<input type="checkbox"/>	PREPARE REPLY
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH	<input type="checkbox"/>	RECOMMENDATION
<input type="checkbox"/>	COMMENT	<input type="checkbox"/>	FILE	<input type="checkbox"/>	RETURN
<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	SIGNATURE

Remarks: The attached recommends a course of action to the Director concerning a proposed Executive order and legislation affecting advisory committees within the intelligence community and the Agency.

The proposed letter from the Director to Senator McClellan has been favorably reviewed by the key committee staff personnel concerned with the legislation and it has been shown to both Braswell and Woodruff. After the Director approves the letter, we would send it to OMB for review before it is transmitted to Senator McClellan.

STATINTL

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
Acting Legislative Counsel 7D43	29 Jun 72